

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**DOCKET NO. 2013-239-C– ORDER NO. 2013-\_\_\_**

**SEPTEMBER \_\_\_, 2013**

**IN RE:**

**APPLICATION OF TEMPO TELECOM,  
LLC FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS  
CARRIER IN THE STATE OF SOUTH  
CAROLINA**

)  
) *proposed*  
) **ORDER APPROVING TEMPO**  
) **TELECOM, LLC AS AN**  
) **ELIGIBLE**  
) **TELECOMMUNICATIONS**  
) **CARRIER**  
)

**1.     Introduction**

This matter comes before the Public Service Commission of South Carolina (the “Commission”) pursuant to 10 S.C. Code Ann. Regs. 103-690 and 103-690.1 (Supp. 2012), 47 U.S.C. § 214(e)(2) and 47 C.F.R. § 54.101, on the Application of Tempo Telecom, LLC (“Tempo Telecom” or the “Company”) for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina filed on June 13, 2013 (the “Application”) as amended. Tempo Telecom has asked the Commission to designate it as an ETC throughout the proposed service area in South Carolina for the limited purpose of offering Lifeline support to its qualifying customers and drawing from the low income fund of the federal Universal Service Fund (“USF”) in connection with those services.

For the reasons explained in this Order, the Commission has concluded that the Application should be approved and that designation of Tempo Telecom as an ETC on the terms provided in this Order would serve the public interest.

**2. Background**

As directed by the Commission, Notice of Filing and Hearing was published in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Tempo Telecom filed proofs of publication of the Notice with the Commission on July 22, 2013. No petitions to intervene or protests were filed in this matter. The South Carolina Office of Regulatory Staff (“ORS”) is a party pursuant to statute. *See* S.C. Code Ann. § 58-4-50(4) (Supp. 2012). A Stipulation entered into between Tempo Telecom and ORS was filed with the Commission on August 28, 2013.

The Stipulation recommends that Tempo Telecom be designated as an ETC for the limited purpose of providing Lifeline service to qualified households in accordance with the terms of the Stipulation. The Stipulation has been filed in the record and is attached as Order Exhibit 1.

On August 29, 2013, Tempo Telecom filed a Motion to Waive the Hearing and for Expedited Review of the Application as amended, requesting that the Commission waive the hearing, admit all prefiled testimony and exhibits into the record, grant expedited consideration of the Application, and approve the Application as amended. ORS did not object to this Motion.

Tempo Telecom is a Georgia limited liability company. Tempo Telecom will offer resold wireless services. The Company will offer free mobile devices to its Lifeline customers, and will furnish a given number of minutes at no charge. It will operate as an ETC and will offer Lifeline service supported by the federal USF to qualified low-income South Carolina households. Like other

wireless carriers who are designated ETCs, Tempo Telecom will contribute to the South Carolina Universal Service Fund on revenues which it earns from South Carolina customers.

Having considered the record before it, the Commission finds that the record is sufficient to allow a final determination in this matter and that the interests of judicial economy are served by waiving the hearing and granting expedited review and approval of the Application as amended.

**3. Requirements for Designation and Analysis**

Tempo Telecom requests ETC Lifeline designation in South Carolina to provide wireless services including voice Lifeline service plans through the resale of Sprint's network. The Company's Compliance Plan, as approved by the FCC, is attached and incorporated by reference as Exhibit 1 of this Order. Tempo Telecom agrees to comply with all terms and conditions of the FCC approved Compliance Plan. Any changes or modifications to the Company's FCC approved Compliance Plan must be filed with this Commission, with a copy to ORS, within five (5) days of such changes being filed at the FCC.

Section 214(e)(2)(e) of the Telecommunications Act of 1996 (the "Act") authorizes state commissions to designate common carriers that meet the requirements as ETCs.<sup>1</sup> Section 103-690 of the S.C. Code Ann. Regs. provides that the Commission will fulfill its responsibility to designate common carriers as ETCs and establishes the requirements that an applicant must meet in order to be designated an ETC.<sup>2</sup>

As demonstrated in the Application as amended, the testimony, the Stipulation, and the Company's Compliance Plan, Tempo Telecom satisfies all the relevant requirements for designation

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<sup>1</sup> 47 U.S.C.A. § 214(e)(2).

as an ETC specified in Sections 254 and 214 of the Act and Section 103-690 of the S.C. Code Ann. Regs. Tempo Telecom is a common carrier as defined by 47 U.S.C. Section 153(11). Additionally, the Company offers all the supported services that are required by law;<sup>3</sup> provides its voice service plans, including a Lifeline plan, through the resale of Sprint's network; and offers service throughout its designated service area.

Additionally, it has been demonstrated that following designation as an ETC, Tempo Telecom affirms that it will satisfy the requirements of 10 S.C. Code Ann. Regs. Section 103.690.1E(a)(1) through (6) by offering Lifeline service in the designated service area to all qualifying low-income consumers in accordance with the federal Lifeline service guidelines. Specifically, Tempo Telecom intends to (1) advertise the availability of its Lifeline services through media of general distribution throughout its ETC service area, (2) make Lifeline service available to qualifying low-income consumers without requiring a service deposit in order to initiate Lifeline service if the consumer elects toll limitation services, (3) verify annually that its Lifeline customers meet the qualifications, (4) provide sixty (60) days notice to customers which it believes no longer qualify for Lifeline service, (5) and not charge Lifeline customers a monthly number-portability charge. Tempo's prepaid wireless Lifeline service offering will be a nationwide calling plan, and will not distinguish between toll and non-toll calls. Pursuant to the *Lifeline Reform Order*, subscribers to such services are not considered to have voluntarily elected to receive TLS.<sup>4</sup>

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<sup>2</sup> See 10 S.C. Code Ann. Regs. 103-690(C).

<sup>3</sup> 47 U.S.C. § 254(c); 47 C.F.R. § 54.101(a); and 10 S.C. Code Reg. § 103-690(C)(a).

<sup>4</sup> See *Lifeline and Link-Up Reform and Modernization, et al.*, WC Docket No. 11-42, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, (rel. Feb. 6, 2012) ("*Lifeline Reform Order*"). (In the *Lifeline Reform Order*, the FCC stated that toll limitation service ("TLS") would no longer be deemed a supported service. ETCs are not required to offer TLS to low-income consumers if the Lifeline

Further, Tempo Telecom affirms it will certify compliance with the service requirements applicable to the support it receives; be able to remain functional in emergency situations;<sup>5</sup> and satisfy consumer protection and service quality standards set forth in the CTIA Consumer Code as described in the Application including annual certification of its compliance and reporting of consumer complaints in accordance with 10 S.C. Code Ann. Regs. Sections 103-690(C)(1)(a)(C)(3) and 103-690.1(B)(b)(4). The Company additionally states it will provide Lifeline local usage plans comparable to the incumbent local exchange carriers already operating in the area; and comply with applicable reporting requirements including, but not limited to, annual progress reports required in 10 S.C. Code Ann. Regs. Sections 103-690.1, annual certification that it is able to remain functional in emergency situations required by 10 S.C. Code Ann. Regs. Sections 103-690.1(B)(b)(2), and annual outage reporting requirements of 10 S.C. Code Ann. Regs. Sections 103-690(B)(b)(2). Last, Tempo Telecom asserts that it will take steps to limit fraud, waste and abuse in the federal universal service fund programs.

On February 6, 2012, the FCC comprehensively reformed the low income program and revised the Lifeline service requirements in the *Lifeline Reform Order*. The FCC adopted specific reforms attempting to limit fraud, waste and abuse in the low-income program. Tempo Telecom commits to compliance with the rules as they are applicable.

The Commission must consider the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering in determining whether an ETC

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offering provides a set amount of minutes that do not distinguish between toll and non-toll calls.)  
*Lifeline Reform Order* at ¶¶ 367, 49, and 230.

designation is in the public interest pursuant to 10 S.C. Code Ann. Regs. § 103-690(C)(b). Considering these factors and others, the Commission determines that it is in the public interest to grant Tempo Telecom ETC designation for the limited purpose of providing Lifeline service.

The Commission takes note that Tempo Telecom filed its approved FCC Compliance Plan which is attached and incorporated by reference as Exhibit 1 of this Order. Tempo Telecom agrees that it will comply with all terms and conditions of the FCC Compliance Plan and will file any changes or modifications with the Commission and ORS within five (5) days of such changes being filed at the FCC.

Based upon the foregoing and the record established in this proceeding, we find and order the following:

1. The Application as amended, Testimony, and Stipulation are accepted into the record without objection.
2. The Applicant's Motion to Waive the Hearing and for Expedited Consideration is granted.
3. Tempo Telecom has met all applicable requirements for designation as an Eligible Telecommunications Carrier for the limited purpose of providing Lifeline service to low-income South Carolina households, including those requirements codified at 47 U.S.C. § 214(e).
4. Tempo Telecom is hereby designated as an ETC as of the effective date of this order as requested in the Application on the terms provided in the Stipulation.
5. Since Tempo Telecom seeks only pass-through support for low-income customers, a cream-skimming analysis is unnecessary in this docket.

6. Designation of Tempo Telecom as an Eligible Telecommunications Carrier will serve the public interest.

7. Tempo Telecom will provide all required universal service functionalities set forth in the Communications Act of 1934, as amended, and the rules and regulations of the Federal Communications Commission and the Commission.

8. All federal USF funding received as a result of this Order will be used for Lifeline support and will be flowed through for the direct benefit of eligible low-income customers.

9. Tempo Telecom shall meet the reporting and certification requirements for ETCs as outlined by 10 S.C. Code Ann. 103-690.1 and file annual reporting information with the Commission no later than June 30<sup>th</sup> of each year. A copy of this report shall be provided to ORS.

10. Tempo Telecom shall submit to the Commission copies of responses to the Lifeline Verification Survey or Certification filed with the Universal Service Administrative Company on August 31<sup>st</sup> of each year.

11. Tempo Telecom shall administer the Lifeline program in conformity with 10 S.C. Code Regs. 103-690.1(E)(a) and (b).

12. Tempo Telecom will comply with any applicable 911 and E911 obligations, including obligations relating to the provision and support of 911 and E911 services.

13. Should the Commission determine that Tempo Telecom has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes, rules, or regulations, the Commission may deny the Company's annual recertification as an ETC.

14. Tempo Telecom shall comply with all current and future Commission orders, rules and regulations, and laws of the State of South Carolina, and all applicable Federal law.

15. Any changes or modifications to the Company's FCC approved Compliance Plan will be filed with the Commission, with a copy to ORS, within five (5) days of filing at the FCC.

16. Subject to the terms and conditions herein, Tempo Telecom, LLC is hereby designated as an ETC for the limited purpose of providing Lifeline service as requested in the Application as amended. A copy of this order shall be promptly provided by the Commission to the FCC and the Universal Service Administrative Company.

17. This Order shall remain in full force and effect until further order of the Commission.

**BY ORDER OF THE COMMISSION:**

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G. O'Neal Hamilton, Chairman

ATTEST:

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Nikiya "Nikki" Hall, Vice-Chairman

(SEAL)